



State of Texas  
House of Representatives  
Austin

Hugo Berlanga

RQ-730

Committees:  
Public Health, Chairman  
Ways & Means  
Calendars

Speaker Pro Tempore  
1983-1991

May 9, 1994

The Honorable Dan Morales  
Attorney General of Texas  
Post Office Box 12548  
Austin, Texas 78711

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FILE #

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Dear General Morales:

Attached is a copy of a letter I received from a constituent who has discovered a potential conflict in state law related to handicapped parking.

I wish to request an Attorney General's opinion on the issues outlined in Mr. Sheppard's letter.

Thank you in advance for your attention and prompt response to this request.

Sincerely,

Hugo Berlanga

Hugo Berlanga

Attachment (1)

**Leslie Michael Sheppard  
P.O. Box 56  
San Marcos, Texas 78667-0056  
512-392-2057**

**03/20/94**

**Rep. Hugo Berlanga  
Corpus Office  
Corpus Christi, Texas**

**Mr. Berlanga,**

**Since your office has been of assistance in the past, I would like to request further help from you in obtaining an Attorney General office opinion.**

**This concerns a possible conflict between the state law concerning handicapped parking [Tex. Rev. Civ. Stat. Ann. art. 6675a-5e.1, §6(a) & (b) (Vernon 1994)] and another state law utilized by Southwest Texas State University (and other educational institutions) to regulate traffic and parking within the campus. Art. 6675a specifically states that handicapped drivers may park in ANY designated handicapped parking space, and does not impose any requirements or restrictions other than having proper vehicle identification (handicapped license tags or a handicapped placard utilized on the dashboard or rear-view mirror).**

**There does not appear to be a problem with non-student handicapped drivers utilizing designated parking spaces on the SWTSU campus, but the university is taking the stand that once a handicapped driver enrolls as a student, then that driver must obtain (buy) a campus parking decal in order to continue utilizing those same handicapped parking spaces. Although university officials have cited state statutes granting the university power to regulate traffic and parking on campus, they have been unable to cite any statute containing any provisions specifically overriding, or specifying exemptions to, Article 6675(a)-5e.1.**

**The two major points of dispute are whether:**

**1-Drivers who are designated as handicapped and have the appropriate vehicle identification (handicapped license tags or the placard hanging off the windshield mirror) may be required to obtain campus**

**parking decals (after enrolling as students) to continue using designated handicapped parking spaces, and**

**2-If such decals can be required, may a fee still be charged to the handicapped driver for the decal.**

**I am enclosing copies of letters to SWTSU attorney Bill Fly as well as to university system attorney Robert Provan on the matter, and have received replies back stating the university's (and university system's) position that such decals may be required and fees charged. I have also submitted a letter to Fly requesting a AG office opinion on the matter, and in his reply to me this last week he indicated such requests must be forwarded to the system board of regents for consideration, and that he is NOT inclined to make such a request. This board meets quarterly and are not scheduled to meet again for approximately three months.**

**In my last letter to Fly asking for the AG opinion, I asked for specific clarification on the following points:**

**1-In light of the above-mentioned state statue, may a Texas university place any restrictions on the use of designated handicapped parking spaces within its campus boundaries by drivers classified as handicapped and displaying the required motor vehicle license tags or placard, such as requiring them to obtain campus parking permits? Or even temporary visitor passes?**

**2-Does a handicapped driver's status--either as a non-student visitor or as an enrolled student--have any bearing on the application of the handicapped parking law?**

**3-If so, may the university require fees to be charged the handicapped student for the parking permits?**

**4-Specifically, is there any conflict with the above-mentioned statue and the statue which permits the university to control campus parking and use parking permits as a source of revenue? Does either statue take priority over the other?**

**5-Since Section 6(b) exempts designated handicapped drivers from fees or fines "imposed by a governmental authority for parking at a meter or in a space with a limitation on the length of time for parking...", would not the SPIRIT of this law, if not the letter, exhibit an intent to exempt handicapped drivers from fees of the nature being contested here?**

**6-If the requested AG opinion rules that handicapped drivers are NOT required to obtain or pay for campus parking decals, would that also cover using**

**6a-Adjacent (non-reserved) parking spaces utilized by handicapped drivers when the designated handicapped spaces are filled?**

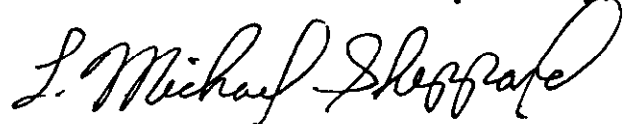
**6b- Parking spaces designated by the university as "Visitor" (non-student) parking spaces for the general public, when utilized by handicapped drivers when adjacent designated handicapped parking spaces are filled?**

**Your prompt help would be greatly appreciated in this matter, as it was recently in the AG opinion obtained regarding the eligibility of Veterans with general under honorable condition discharges to utilize the Hazelwood Act for college tuition expenses. However, this time I hope your staff can be faster on getting the ball rolling on this AG request, rather than (again) taking several months before the request is actually submitted.**

**Also, to ensure that the specific points included in this letter are considered by the AG office and staff, I would ask you include a copy of this letter with your request to their office for an opinion.**

**Thank you very much!**

**Respectfully,**

A handwritten signature in black ink, appearing to read "L. Michael Sheppard", written in a cursive style.

**L.M. Sheppard**

**Leslie Michael Sheppard  
P.O. Box 56  
San Marcos, Texas 78667-0056  
512-392-2057**

**03/07/94**

**Bill Fly, University Attorney  
Southwest Texas State University  
San Marcos, Texas**

**Mr. Fly,**

**Regarding your recent letter concerning the university's policy of requiring paid student parking decals for enrolled students to utilize designated handicapped parking spaces, I wish to contest your decision.**

**This is a formal request to you that the university request an opinion from the state attorney general office in the matter and whether a conflict might exist with the state law concerning handicapped parking [Tex. Rev. Civ. Stat. Ann. art. 6675a-5e.1, §6(a) (Vernon 1994)].**

**I request copies of this letter as well as my previous letter (copy enclosed) be included with your request to the AG office for clarification regarding exactly what is sought. When your request is submitted, I also ask a copy be sent to me.**

**I specifically request that your AG letter ask for clarification on the following precise points:**

**1-In light of the above-mentioned state statute, may a Texas university place any restrictions on the use of**

designated handicapped parking spaces within its campus boundaries by drivers classified as handicapped and displaying the required motor vehicle license tags or placard, such as requiring them to obtain campus parking permits?

**2-Does a handicapped driver's status—either as a non-student visitor or as an enrolled student—have any bearing on the application of the handicapped parking law?**

**3-If so, may the university require fees to be charged the handicapped student for the parking permits?**

**4-Specifically, is there any conflict with the above-mentioned statute and the statute which permits the university to control campus parking and use parking permits as a source of revenue?**

**5-Since Section 6(b) exempts designated handicapped drivers from fees or fines "imposed by a governmental authority for parking at a meter or in a space with a limitation on the length of time for parking...", would not the SPIRIT of this law, if not the letter, exhibit an intent to exempt handicapped drivers from fees of the nature being contested here?**

**6-If the requested AG opinion rules that handicapped drivers are NOT required to obtain or pay for campus parking decals, would that also cover using**

**6a-Adjacent (non-reserved) parking spaces utilized by handicapped drivers when the designated handicapped spaces are filled?**

**6b- Parking spaces designated by the university as "Visitor" (non-student) parking spaces for the general public, when utilized by handicapped drivers when adjacent designated handicapped parking spaces are filled.**



**Leslie Michael Sheppard  
P.O. Box 56  
San Marcos, Texas 78667-0056  
512-392-2057**

**01/30/94**

**Robert Provan  
University System Attorney**

**Sir:**

**Attached is a letter submitted to Bill Fly, the attorney for Southwest Texas State University. I would like your written opinion on the questions raised in it regarding campus parking decal fees charged to handicapped drivers utilizing designated handicapped parking spaces. Specifically, are handicapped drivers required to obtain parking decals, and if so, may fees be charged.**

**Also, assuming positive feedback from you on this matter, please also clarify what rules or restrictions apply in parking of a vehicle with appropriate plates or identification in parking spaces designated for the general public when adjacent handicapped-designated spaces are occupied.**

**Respectfully,**



**L. Michael Sheppard**